

STATEMENT OF
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TO THE
U.S. HOUSE OF REPRESENTATIVES' SUBCOMMITTEE ON
FISHERIES CONSERVATION, WILDLIFE & OCEANS
REGARDING
FISHING FLEET CAPACITY REDUCTION PROGRAMS,
FEDERAL INVESTMENT IN FISHERIES, AND
REAUTHORIZATION OF THE
MAGNUSON-STEVEN'S FISHERY CONSERVATION & MANAGEMENT ACT
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Good morning, Mr. Chairman and members of the Subcommittee. My name is Zeke Grader. I am the Executive Director and Legal Counsel to the Pacific Coast Federation of Fishermen's Associations (PCFFA). The PCFFA is made up of 22 different associations representing working men and women in the west coast commercial fishing fleet. I wish to thank the Subcommittee for the opportunity to provide comments today on fleet capacity reduction programs, federal investment in fisheries and some thoughts on the reauthorization of the Magnuson-Stevens Act.

My comments here today will focus principally on the issue of fishing fleet reduction programs, but I also want to touch on federal investment in fisheries. At the outset, let me also explain the experience and interest of PCFFA in these issues. PCFFA was formed approximately a month prior to the signing by President Ford of the Fishery Conservation & Management Act on 13 April 1976. A number of PCFFA's founding organizations had been involved in pushing for passage of legislation to extend U.S. fisheries jurisdiction to 200 miles in an effort to control or eliminate foreign fishing fleets operating in U.S. coastal waters. These fishing organizations representing either trollers and crabbers, or trawlers worked with former California Representative Don Clausen (who introduced the first bill to extend U.S. fisheries jurisdiction to 200 miles in 1969) and with another California Congressman, Robert Leggett, (who chaired the Fisheries Subcommittee when HR 200 was working its way through the Congress in 1975 and 1976) supporting passage of the legislation we now know as the Magnuson-Stevens Act. PCFFA, itself, has been active in the various reauthorizations of the Magnuson Act, pushing for, among other things, the inclusion of habitat

language in the 1986 reauthorization and the 1976 passage of the Sustainable Fisheries Act.

Fishing Fleet Capacity Reduction Program

While it may be hard to believe now, 25 years later, there was considerable opposition to the extension of U.S. fisheries jurisdiction to 200 miles, even though President Truman had some two decades before declared the resources of the shelf (i.e., oil and gas, minerals) to belong to the U.S. There was opposition from defense and maritime shipping interests; there was opposition from the U.S. tuna fleet that operated off the shores of Central and South American nations and Africa. And there was opposition from foreign relations interests who believed the fishery resources of the oceans, beyond nations' 3 or 12 mile limits, should be dealt with by an international agreement or through a United Nations' Law of the Sea treaty, and not by unilateral declarations. As part of a compromise to ameliorate some of the opposition to a 200-mile limit, HR 200 provided for the continuation of foreign fishing off U.S. shores, through Governing International Fishing Agreements (GIFAs). Foreign fishing was only to be eliminated as the U.S. built up its harvesting and processing capabilities to utilize the fish in the newly-established Fishery Conservation Zone (later renamed the Exclusive Economic Zone or EEZ). The problem was we had no idea of what the fish stock sizes were or how much harvesting they could sustain.

The inherent flaw with the federal law then, which now seems clear although few saw a quarter century ago in those heady days when the new law was being trumpeted as the "renaissance of the fisheries," was that we had to build up our U.S. fleet, and our processing capabilities and demand, to get rid of the foreigners, but we had no idea what level we could build to for sustainable fisheries.

The second flaw was that the U.S. had no experience in conserving or managing fisheries. Management previously had been done by the states. The National Marine Fisheries Service was a brand new agency cobbled together from the old Bureau of Commercial Fisheries and the marine elements of the nation's sportfishing programs. The Bureau of Commercial Fisheries had experience in administering a fishing vessel loan program and a loan guarantee program, as well as the Capital Construction Fund. It did have some research elements as well - laboratories and research vessels, but not the capability to conduct the research and stock assessments necessary to determine what level of harvest the fish stocks being brought under the new federal fishery management plans (FMPs) could sustain. But, there we were with a new agency and no experience in fishery regulation, charging them with appointing eight regional fishery councils and managing the vast fishery resources off the U.S. coast.

In hindsight, what should have happened was an immediate phase-out foreign fishing and the imposition of a moratorium on any new U.S. harvesting capacity in the fishery within the EEZ until some thorough stock assessments had been conducted and some understanding gained on what level of fishing those stocks could sustain. Then there could have been a reopening of the fishery to new U.S. effort as well as the foreign fleets that had previously fished in the new U.S. waters, with a plan in place for a transition from a mix of U.S. and foreign fleets to an exclusively U.S. fishing fleet presence - all of it based on what level of harvest each species or species complex could sustain. That, unfortunately, did not happen and I doubt that, given the politics of the time and the nature of the opposition to extended jurisdiction, it would have been possible.

Exacerbating this situation was the fact the money for the necessary research and stock assessments was not forthcoming, but there was plenty of encouragement for fishermen, as well as other investors, through the fishing vessel loan guarantee and CCF programs and various provisions in the U.S. Tax Code, to build new and larger vessels - mostly trawlers. Other U.S. programs, such as Saltonstall-Kennedy Act (S-K) funds

were used to help develop and promote "underutilized" stocks to assure there would be markets for the fish caught by the expanded U.S. fleet. In the meantime, some of the new U.S. boats sold their catches at sea to foreign processing ships under joint venture arrangements. That was the "Americanization" of the EEZ.

What happened as we all know, is this nation went on a boat building binge, not just adding more vessels to the fleet, but substantially increasing the catch capacity of the new vessels entering the fishery. And, the old vessels were not removed to make room for the new boats, they kept fishing too. All of this was happening so we could eliminate the foreign fleets, but we didn't have a notion about how much fish was there or could be taken. The irony is that all many U.S. fishermen wanted was to be rid of the foreign fleets who they felt were overfishing the stocks. Building up a U.S. fleet to take the place of the foreigners was not what many fishermen who wanted the 200-mile limit had sought.

Given this history, it is clear the law and policy of the U.S. is at the root of the problem we are now faced with of excess fish harvesting capacity. There is little doubt in my mind that there is Federal responsibility for the situation we find now in many of our fisheries where there is too much harvesting capacity for the fish available. This excess capacity is putting fish stocks at risk as well as fishing men and women and our fishing communities. And, where there is overcapacity in one fishery it can quickly lead to overcapacity in others as fishermen in overcapitalized fisheries seek out opportunities in other fisheries.

On the west coast, even before the passage of HR 200 in 1976, there were efforts afoot to limit the number of vessels in fisheries to bring the fish harvesting capacity in line with what the resource could support for an economically viable fishery. Alaskan salmon and California abalone were examples of such early efforts. Indeed, most west coast fisheries are presently under some form of limited entry to restrict access into various fisheries. The problem was that many of the limited access programs came in too late when the fleet harvest capacity already exceeded the capacity of the resource to sustain an economically viable fishery.

The west coast groundfish fishery, in particular, was being encouraged by Federal policy - "Americanization" - to expand in the late 1970's and early 1980's, and it did. This expansion happened, however, without first having a good understanding of the stocks or their size, because while there was money for vessels, there were inadequate funds for the necessary research. By the time the Pacific Fishery Management Council finally established a limited access program for the groundfish fishery it was too late. And it is the Pacific coast groundfish fishery that in dire need of a significant reduction in the harvest capacity of its fleet.

In its October 2000, "Transition to Sustainability" the Pacific Council's Groundfish Fishery Strategic Plan, states:

The groundfish resource cannot support the number of vessels now catching and landing groundfish. There are now over 2,000 licensed West Coast commercial fishers [sic], and many thousands of sport fishers. To bring harvest capacity in line with resource productivity, the number of vessels in most fishery sectors will have to be reduced by at least 50%. Coastal ports have significant shoreside infrastructures to support this once-prosperous industry, such as processing plants, boat yards, machine shops, marine supply stores, motels and restaurants. Fishing fleet overcapitalization has been a major factor in fish stock depletion, and the industry and coastal communities are facing an economic and social crisis.

Resolving the overcapitalization, the excess harvest capacity, in the Pacific coast groundfish fleet is crucial for the health of west coast fisheries. First, groundfish has been the largest fishery on the west coast in terms

of total landings and, in most years, value. Not only is it a large employer, it helps to sustain the shoreside infrastructure utilized by other fisheries. Second, as long as excess capacity remains, it will be politically difficult to impose the types of catch limits needed for stock rebuilding because of their harsh economic implications. And, third, and probably of most concern to my members, since they are either not in the groundfish fishery or would not be targeted for any buyout, is the potential for groundfish vessels to put pressure on other fisheries - spreading the problem from that fishery to other fisheries; for example, increasing pressure in fisheries where groundfish vessels may have permits - such as Dungeness crab, or entering fisheries that are still open access - such as albacore.

Some have suggested that we simply let economics take care of the problem, or even to impose an individual transferrable quota (ITQ) system as a solution. It is supposedly a free market system, after all. The problem is economic theory and reality don't always match up and ITQ systems don't deal with excess vessels:

First, if we leave it to economics there will be continuing pressure from those in the fishery to make quotas as large as possible, so they can survive, thereby lengthening delaying, or even undermining, stock rebuilding.

Second, as I mentioned, many of the boats will go into other fisheries or put more pressure on other fisheries - probably resulting in overcapacity in those fisheries as well.

Third, bankruptcies will not take vessels out of the fishery, but simply allow the new entrants to get into the fishery at a lower cost - they, too, will be adding pressure on stocks and clamoring for liberal seasons trying to make ends meet.

Forth, there is precedent for the federal government lending assistance. Government regularly aids private enterprise - from airlines, to agriculture, to foreign trade missions, to logging roads in national forests, to oil and mineral extraction, to locks and channel construction and maintenance for tug-and- barge operations, to cheap, subsidized water and power in the west. Indeed, the government has funded buy-backs from New England groundfish to North Pacific factory trawl operations. While the buy-backs in these and other cases have not been without their problems, and in New England of questionable impact, there is ample justification for a multi-million dollar groundfish vessel buyout now on the Pacific, particularly if such a program is designed not to repeat some of the problems that plagued buy-backs elsewhere.

Fifth, as I discussed earlier, there is clear federal responsibility here. The federal government encouraged the fleet expansion, indeed, made it the condition for the removal of the foreign fleets.

Estimates of the cost needed to achieve an effective buy-back range from about \$50 million upwards. The \$50 million figure is the estimate developed by the Fishermen's Marketing Association, which represent trawlers to reduce fleet capacity by about half - the Pacific Council's goal. In fact, the trawl fishery should be the major target for any fleet reduction program in the Pacific coast groundfish fishery, since it was the fleet whose capacity was greatly expanded under the Americanization program and it accounts for the lion's share of the groundfish catch.

Let me just add here that the problems is not really that of "too many boats, chasing too few fish," as a lot of fishery professors and a few environmental groups are found of saying, but of too much fishing capacity for the amount of resource available. Any type of fleet reduction program, whether funded by the federal government, by industry, or jointly, must target on reducing harvest capacity, not simply number of vessels.

Not all vessels are equal. It makes more sense to me eliminating (through a buy-out) a single vessel capable of harvesting 50 tons a day than five or ten capable of catching 5 tons per day - provided all are economically viable units.

In addition to the Fishermen's Marketing Association's draft plan for a Pacific coast groundfish capacity reduction program, I understand Senator Wyden is also proposing legislation for federal aid to assist a fleet reduction program for this fishery. I am not going to comment on either, because they are still in draft form, but rather I want to emphasize here today that a capacity reduction program is desperately needed in the Pacific coast groundfish fishery and there is a federal responsibility to assist with such a program. Three elements, however, are critical to make any such program work. They are:

1. All permits held by a vessel must be retired. Merely retiring one permit from a vessel simply allows that vessel to fish harder in another fishery causing problems in that fishery.
2. The vessel must be permanently retired from fishing. Merely removing a permit or permits from a fishing vessel and still allowing it to fish will result in the vessel either purchasing permits from a less active vessel or entering fisheries for which no permits are required - again, exacerbating problems in other fisheries. We may wish to consider whether any vessel removed from the fishery should be prohibited from entering the fishery of another nation, but certainly we should not allow vessels to move freely into another nation's waters unless it is part of a program for sustainable fisheries in that nation.
3. The individual owner who participates in a vessel buyback program should be prohibited from reentering the fishery for a minimum of ten years, if not longer. Nothing is going to be achieved by buying out a high-line fisherman in a fleet reduction program, only to have them come back with the cash from a buy-out and use it to buy back into the fishery. Restrictions on re-entry into a fishery in vessel buy-back programs have been used in other fisheries, such as the salmon and gillnet fisheries in the State of Washington.

Finally, let me talk briefly about the Capital Construction Fund (CCF) that has been blamed, in part, for the overcapitalization in many fisheries and proposed, as a result, for elimination. While CCF certainly has contributed in the past to new vessel construction and major reconstruction (increasing the catching capacity of a fishing vessel), the program can have some positive benefits to the fisheries in the future in at least two ways:

First, there is a need for a fund that fishermen can use to set aside earnings for future investment in their vessels to not increase their catching capacity, but to: 1) make them safer; 2) make them more fuel efficient; and 3) allow them to better hold the catch to increase product safety and quality.

Second, there is a need to modify the program allowing it to modulate vessel construction, including a mechanism to allow CCF holders to take a one-time withdrawal of funds, at a marginal tax rate or as a retirement account, without necessitating a penalty for nonconstructive use. Thus, the CCF program could assist in helping reduce fleet capacity.

Federal Investment in Fisheries

Next, let me turn briefly to federal investments in fisheries and the crucial need for some ongoing programs and increases in expenditures.

SALMON RESTORATION. The monies being invested in salmon resources for California and the Pacific

Northwest are necessary, along with strong enforcement of the Clean Water Act and the Endangered Species Act, if we are to get many of these stocks not only delisted, but back to full productivity. The critical elements in any grant programs to the region for salmon restoration to assure they are effective and not squandered are these:

1. The monies should only be expended pursuant to a restoration plan. Considerable funds have been squandered for various projects that were not part of any overall restoration plan and, therefore, had little impact.
2. The monies should only be used where there is some permanence to the project. It does little good to put a restoration project in one part of a watershed only to have it destroyed as a result of activities occurring upstream or upslope in that watershed. Project proponents, whether private groups or state agencies, must be made to demonstrate that their project will not be destroyed by other activities in a watershed.
3. The monies should not be used to mitigate damages caused by a landowner or other entity that the landowner or entity has a current obligation to correct. Federal dollars should not be used, or precious salmon restoration monies squandered, to pay to fix the damage someone else is legally obligated to correct.

ANNUAL STOCK ASSESSMENTS. The status of more than three quarters of all species managed under the Magnuson-Stevens Fishery Conservation & Management Act is unknown largely due to a lack of funding for basic research and stock assessments. We need better information on all stocks to fulfill their responsibilities to rebuild overfished stocks, prevent overfishing of stocks approaching an overfished condition, and to set appropriate catch levels for those fish that are not overfished. Currently, National Marine Fisheries Service, with the President's requested increase of \$13.3 million for stock assessments, would still have a deficit of 1,700 research days at sea to fulfill their stock assessment duties. Increasing the stock assessment expenditure by \$26.6 million from 2001 levels would cut that number in half so that the deficit could be erased in 2003 or 2004.

OBSERVER PROGRAMS. Increasing the annual appropriations for fisheries observers by the National Marine Fisheries Service would enable the agency to establish and implement an effective National Observer Program. Such a program is essential to overall fisheries research, the dearth of which is caused so many of the problems now facing our fisheries today. An increase this year, for example, from \$16.4 million to \$25 million in observer programs would provide an extra \$5 million over FY 2001 funding levels for West Coast observers. The information from these observers, together with the information that is expected to be generated through the National Fisheries Information System, would give us a better idea on exactly how much fish is caught directly and as bycatch, thereby improving management of our fish populations.

ESSENTIAL FISH HABITAT (EFH). Essential fish habitats (EFH) are those waters and substrate on which fish depend. These habitats are currently being damaged from both land-based activities and some destructive fishing practices. While the Sustainable Fisheries Act of 1996 gave NMFS a clear mandate to identify and conserve essential fish habitat too little has been done to protect these habitats. An increase in funding would allow NMFS to gain the information necessary to further refine designations of EFH and take action to conserve EFH, including measures to minimize the adverse impacts of fishing gear and other human activities on EFH.

ENFORCEMENT AND SURVEILLANCE. Enforcement of our fishery management laws has been woefully underfunded for years. According to NMFS, there are currently around 150 enforcement agents that

are each responsible for 1200 miles of coastline. This year alone, an increase in funding for enforcement by \$7 million over the President's request, would allow for the hiring of 30 more officers to begin to address this chronic shortfall. The increase would also allow for a strengthening of alternative enforcement programs and enhancement of state and local partnerships.

Increasing funding for the Vessel Monitoring System (VMS) would allow for the establishment and implementation of VMS systems and the placing of VMS transponders on a vast majority of the estimated 10,000 boats in the U.S. commercial fishing fleet. VMS programs enhance data collection and safety at sea, and can be beneficial to fishermen by allowing them to fish right up until a quota is reached rather than leave the fishing site before the season closes. These systems could also be used to increase fleet safety through the tracking of vessels.

Reauthorization of the Magnuson-Stevens Fishery Conservation & Management Act

My organization is one of the commercial fishing organizations belonging to the Marine Fish Conservation Network (MFCN). The Network is currently working on developing a set of recommendations for the reauthorization of our nation's fisheries act that, we believe, will reflect the concerns of conservation organizations, as well as the concerns of commercial and recreational fishing organizations committed to sustainable fisheries. There are a number of concerns the Network has currently with the implementation of the MSFCMA and the 1996 Sustainable Fisheries Act amendments that will be addressed when the Network makes its recommendations, probably within the next month.

Conclusion

Mr. Chairman and members thank you again for this opportunity to testify. As you will have noted, the resolution of the Pacific coast groundfish crisis is of the most concern to those of us on the west coast. We believe that the fleet harvesting capacity in that fishery must be substantially reduced, not just for the protection of groundfish stocks and the continued economic viability of a fishing fleet in that fishery, but to protect our other fisheries and fleets as well. There is a clear federal obligation to provide assistance and we ask that this Subcommittee, the full Resources Committee and the Congress provide the assistance necessary so we can rebuild the stocks and restore vitality to our fishing communities. I will be happy to respond to any questions the Subcommittee may have. Thank you.

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